



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,706	01/08/2004	Tomoko Takehara	58647-176	8946
7590	04/20/2006			EXAMINER NGUYEN, HUONG Q
McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			ART UNIT 3736	PAPER NUMBER

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	10/752,706	Applicant(s)	TAKEHARA, TOMOKO
Examiner	Helen Nguyen	Art Unit	3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 January 2004.
2a) This action is FINAL. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-41 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-41 is/are rejected.
7) Claim(s) 1 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
10) The drawing(s) filed on 08 January 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/8/04, 7/30/04.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in Application No. 10752706, filed on 1/8/2004. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 1/8/2004 and 78/30/2004 is/are acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

3. **Claim 1** is objected to because of the following informalities: “appearance period estimation means” recited in line 17-18 should be “appearance time estimation means” to maintain consistency with previously used terminology. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-41** are rejected under 35 U.S.C. 102(b) as being anticipated by Kodama et al (US Pat No. 6402699).

6. In regards to **Claim 1**, Kodama et al disclose a female physical condition management apparatus comprising:

physical condition data acquiring means, referred to as "data input device" (41) and "electrodes" (21-22, 51-52, 55);

appearance time estimation means, referred to as "CPU" (45) (Col.6, line 56-58);
estimation accuracy determination means, referred to as "decision making unit" (Col.2, line 56-60);

display means (42) (Col.6, line 50-52);
wherein the physical condition data acquiring means acquires data about physical conditions of a female, which appear in a monthly cycle, i.e. menstruation start/end date (Col.6, line 34-35);

the appearance time estimation means estimates the oncoming times of appearance of the physical conditions appearing in a monthly cycle of the female based on the acquired data about the physical conditions (Col.6, line 56-58);

the estimation accuracy determination means determines the accuracy of the estimations made by the appearance period estimation means, wherein accuracy determination is inherent in a comparison between present data and historical record (Col.2, line 56-60);

and the display means displays data about the estimated times of appearance (Col.6, line 50-52) and data about the determined estimation accuracy (i.e. historical record) (Col.2, line 25-27).

7. In regards to **Claim 2**, Kodama et al disclose the estimation accuracy determination means determines the accuracy of the estimations made by the appearance time estimation means based on the number of times the data about the physical conditions appearing in a monthly cycle of the female has been acquired by the physical condition data acquiring means in the past. Specifically, Kodama et al disclose making a decision by comparing present data with historical record, wherein the nature of such comparison inherently constitutes accuracy determination based upon the number of times data has been acquired in the past (Col.2, line 56-60).

8. In regards to **Claim 3**, Kodama et al disclose the data about the estimation accuracy which is displayed by the display means (Col.2, line 25-27) is a probability that the physical conditions appearing in a monthly cycle of the female actually appear at the estimated times of appearance, wherein such probability is inherent in the comparison of present data with historical record, as described above (Col.2, line 56-60).

9. In regard to **Claims 4-5**, Kodama et al disclose the physical condition data acquiring means as used by the female to input the data about the physical conditions appearing in a monthly cycle (Col.6, line 34-35).

10. In regard to **Claims 6-7**, Kodama et al disclose the physical condition data acquiring means measures physical data, i.e. impedance (Col.6, line 25-28) of the female and acquires the data about the physical conditions appearing in a monthly cycle of the female based on the measured physical data (Col.5, line 20-34), best seen in Figure 2.

11. In regard to **Claims 8-9**, Kodama et al disclose the physical data of the female as the basal body temperature of the female (Col.8, line 35-45).

12. In regard to **Claims 10-11**, Kodama et al disclose the physical data of the female as the bioelectric impedance of the female (Col.7, line 16-30).

13. In regard to **Claims 12-21**, Kodama et al disclose the data about the physical conditions appearing in a monthly cycle of the female, which is acquired by the physical condition data acquiring means, is the start date of menstruation of the female (Col.6, line 34).

14. In regard to **Claims 22-31**, Kodama et al disclose the data about the physical conditions appearing in a monthly cycle of the female, which is acquired by the physical condition data acquiring means, is the ovulation date of the female, wherein Kodama et al disclose inputting the start and ending states of menstruation, wherein said ovulation date is directly related to the start and ending date of menstruation, thus an input of said start and ending menstruation dates constitutes an ovulation date (Col.6, line 34-35).

15. In regard to **Claims 32-41**, Kodama et al disclose the data about the physical conditions appearing in a monthly cycle of the female, which is acquired by the physical condition data acquiring means, is the number of days in the monthly cycle of the female (Col.7, line 13-14).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baba et al (US Pub No. 20020013521 and 20030073923) both disclose female physical condition managing apparatuses.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Nguyen whose telephone number is 571-272-8340. The examiner can normally be reached on Monday - Friday, 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/752,706
Art Unit: 3736

Page 7

4/12/2006

Jen

Max F. Hindenburg
MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700